



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
www.uspto.gov

ABELMAN, FRAYNE & SCHWAB  
666 Third Ave., 10th Floor  
New York NY 10017-5621

**COPY MAILED**

**MAR 12 2007**

**OFFICE OF PETITIONS**

In re Application of	:	
JARALLA	:	
Application No. 10/533,490	:	DECISION DISMISSING
Filed: April 28, 2005	:	PETITION UNDER 37 CFR 1.10(c)
Attorney Docket No. 206,973	:	

This is a decision on the petition filed January 16, 2007, which is properly treated as a petition under 37 CFR 1.10(c) requesting that the submission of the issue fee payment for the above-identified application be considered as filed on January 3, 2007, which is the "date-in" or other official USPS notation on the Express Mail Mailing Label, instead of the currently accorded filing date of January 4, 2007.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be filed within **TWO MONTHS** of the date of this decision in order to be considered timely (see 37 CFR 1.181(f)). No extensions of time pursuant to the provisions of 37 CFR 1.136 are permitted. If reconsideration is not requested within the time period specified above, this submission of the issue fee payment for the application will be referred to Office of Publications with the presently accorded filing date of January 4, 2007.

37 CFR 1.10(c) sets forth procedures for filing a petition to the Director for a filing date as of the date of deposit with the USPS, where there is a discrepancy between the filing date initially accorded by the Office and the "date in" entered by the USPS or other official USPS notation.

To be grantable, a petition must:

- (1) be filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;
- (2) include a showing that the number of the "Express Mail" mailing label was placed on each piece of correspondence prior to the original mailing; and
- (3) include a true copy of the "Express Mail" mailing label showing the "date in" or other official notation by the USPS.

This petition lacks item (3) above.

Petitioner requests the filing date of January 3, 2007 on the basis that there is a discrepancy between the filing date the USPTO has currently accorded this application and the "date-in" or other official USPS notation on the "Express Mail" mailing label. The Remarks of the petition state, "[a]ttached is a true copy of the "Express Mailing Label" for this submission showing the "date-in" entry of January 3, 2007 in round stamp made by an employee of the U.S. Postal Service." Unfortunately, the copy of round stamp on the Express Mail mailing label supplied to the Office is illegible, and no date can be discerned.

Moreover even if the submission was granted a filing date of January 3, 2007, the above-identified application is abandoned. The application became abandoned for failure s to timely pay the issue and publication fees on or before January 2, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed October 2, 2006, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on January 3, 2007.


Further correspondence with respect to this matter should be addressed as follows:

By Mail:                      Mail Stop PETITION  
                                    Commissioner for Patents  
                                    P. O. Box 1450  
                                    Alexandria, VA 22313-1450

By facsimile:              (571) 273-8300  
                                    Attn: Office of Petitions

By hand:                    U. S. Patent and Trademark Office  
                                    Customer Service Window, Mail Stop Petitions  
                                    Randolph Building  
                                    401 Dulany Street  
                                    Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to Denise Pothier at (571) 272-4787.

  
Frances Hicks  
Lead Paralegal  
Office of Petitions